

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/13/2008 - 05/16/2008 Session)

08-0001
Johnny Hyde v. Gerald Branker
(Dever)

HABEAS CORPUS. Numerous issues arising out of state capital murder conviction and sentencing.

07-1491
Century Care v. Michael Leavitt

MEDICARE. Challenge to sanctions against nursing facility for alleged violations of accident hazards regulation.

07-1881
Gibson v. Fluor Enterprises
(Osteen)

EMPLOYMENT DISCRIMINATION: Propriety of summary judgment in favor of employer on claims brought by Native Americans under 42 U.S.C. section 1981 alleging discriminatory discharge, failure to promote, retaliation, and hostile invironment.

07-5069
Under Seal v. Under Seal
(Payne)

CRIMINAL LAW & PROCEDURE: Challenge to grand jury subpoena.

Tuesday, May 13, 2008

PANEL I
Courtroom 1
Room 412 (Red Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/13/2008 - 05/16/2008 Session)

07-2123
USA v. M/V Sanctuary
(Nickerson)

TOXIC SUBSTANCES CONTROL ACT: Challenge to administrative warrant issued by EPA and injunction
barring tow by appellant of former U.S. Navy hospital ship.

06-6677
Bilal v. State of NC
(Mullen)

HABEAS CORPUS. Whether the district court afforded petitioner adequate notice and opportunity to
respond as required by Hill v. Braxton, 227 F.3d 701 (4th Cir. 2002), before dismissing his habeas
petition as untimely.

Tuesday, May 13, 2008

PANEL II
Courtroom 2
Room 201 (Green Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/13/2008 - 05/16/2008 Session)

01-2134
Tripp v. Charlie Falk's Auto
(Spencer)

TRUTH IN LENDING. Propriety of summary judgment in favor of defendant on claims under the Truth in Lending Act and the Motor Vehicle Information and Cost Savings Act.

08-1024
James Mills
(Bailey)

JURISDICTION. Petition seeking mandamus relief to compel the district court to exercise federal question jurisdiction.

08-1032
Brenda Bosely v. D. Lemmon
(Bailey)

FEDERAL PROCEDURE. Challenge to remand of constitutional and state law claims to state court after removal by federal defendants and assertion of Eleventh Amendment Immunity.

06-6395
US v. Edgerton
(Boyle)

HABEAS. Whether counsel was ineffective for failing to consult with client concerning appeal and for failing to note appeal.

Tuesday, May 13, 2008

PANEL III
Courtroom 3
Room 223 (Tan Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/13/2008 - 05/16/2008 Session)

07-4559 US v. Kuai Li (Ellis)	CRIMINAL LAW & PROCEDURE. Whether the district court erred in canceling defendant's certificate of naturalization and other issues in convictions under 18 U.S.C. Sections 371, 1425(b).
07-1571 Charlie Norfolk v. Norfolk Redevelopment (Friedman)	CIVIL LAW. Whether district court erred in granting summary judgment in breach of contract case; governmental affairs doctrine.
07-4602 US v. Hatem Abu Hassan (Howard)	CRIMINAL LAW & PROCEDURE. Whether sufficient evidence supports the jury verdict for trafficking in counterfeit Viagra.
07-1169 Scott v. Lumbee River Elec (Fox)	CIVIL. Whether genuine issues of material fact existed sufficient to warrant the denial of defendant's summary judgment motion on Scott's gender discrimination claim.

Tuesday, May 13, 2008

PANEL IV
Courtroom 4
Room 414-D (Tweed Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/13/2008 - 05/16/2008 Session)

05-2391
Spencer v. Frontier Insurance
(Anderson)

FEDERAL PROCEDURE: Whether district court order lifting stay contravened abstention doctrine and principles of comity and full faith and credit; bond and damages issues.

08-1060
Eskedar Teshome-Gebreegziabher v. Michael Mukasey provided in 8 U.S.C. section 1252 (f) (2) or by the usual standard for a preliminary injunction?

IMMIGRATION: Does the Court review a motion to stay removal pursuant to the statutory standard

07-1548
Thompson v. Dorchester Co Sher
(Norton)

CONSTITUTIONAL LAW: Whether defendants violated deputy sheriff's First Amendment rights through harassment and discharge based upon vote cast; whether defendants are entitled to qualified immunity; other issues.

Tuesday, May 13, 2008

Panel V
Courtroom 5
Room 229 Courthouse Annex
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/13/2008 - 05/16/2008 Session)

07-2084
Strawn v. AT&T Mobility
(Copenhaver)

CLASS ACTION FAIRNESS ACT. Whether class action against cell phone company alleging deceptive commercial practices satisfied \$5 million diversity jurisdiction requirement of CAFC, 28 U.S.C. Section 1332(d)(2).

07-2028
NLRB v. B A Mullican Lumber

LABOR LAW. Whether withdrawal of recognition of union was unlawful; other issues relating to enforcement of BRB bargaining order.

07-2039
MLC Automotive LLC v. Town of Southern
(Tilley)

FEDERAL PROCEDURE. Whether the district court erred in refusing to vacate Burford abstention order in rezoning case.

06-4855
US v. Kenneth D. Beverly
(Hudson)

CRIMINAL LAW & PROCEDURE. Sufficiency of evidence establishing Beverly's fraudulent intent; sentencing issues.

Wednesday, May 14, 2008

PANEL I
Courtroom 1
Room 412 (Red Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/13/2008 - 05/16/2008 Session)

07-0018 Emmett v. Johnson (Hudson)	CIVIL RIGHTS. Whether the district court properly applied the established Eighth Amendment law to 42 U.S.C. Section 1983 challenge to Virginia lethal injection procedure.
07-1850 Island Creek Coal Co v. Manford Henline	BLACK LUNG: Whether Board correctly determined on remand that miner had timely filed his application for benefits; other issues.
07-2075 E. I. DuPont De Nemours & Comp v. Ampthill Rayon (Hudson)	ARBITRATION LAW. Whether company is required to arbitrate grievance; whether collective bargaining agreement gives company unilateral right to modify benefit plans; other issues.
07-1075 Ezekial Ogundipe v. Michael Mukasey	IMMIGRATION. Whether petitioner established eligibility for adjustment of status under the grandfathering provisions of 8 U.S.C. Section 1255(i)(2000).

Wednesday, May 14, 2008

PANEL II
Courtroom 2
Room 201 (Green Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/13/2008 - 05/16/2008 Session)

07-1128
Michael v. Wesbanco
(Maxwell)

CIVIL. Propriety of partial summary judgment on breach of contract claims; exclusion of videotaped testimony.

07-2090
SMI v. Federal Mine Safety and Health

MINE SAFETY & HEALTH ACT. Whether Secretary acted outside authority vested in her by the Mine Act in issuing citation; whether Secretary abused her discretion.

06-2285
Mims v. Thompson Cadillac
(Fox)

TITLE VII: Whether district court abused its discretion in allowing witness to testify; whether evidence was sufficient to establish hostile work environment; front pay, back pay and attorneys' fees issues.

07-4862
US v. Fermin Martinez
(Conrad)

CRIMINAL LAW & PROCEDURE. Whether government's failure to provide contact information regarding informant violated defendant's due process rights; other issues.

Wednesday, May 14, 2008

PANEL III
Courtroom 3
Room 223 (Tan Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
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(05/13/2008 - 05/16/2008 Session)

07-1684
David Welch v. Elaine L. Chao, Secretary of L

SARBANES-OXLEY ACT. Whether petitioner engaged in protected activity under Sarbanes-Oxley Act;
other issues.

07-1144
Rutecki v. CSX Hotels, Inc
(Johnston)

CIVIL. Negligence issues related to equestrian accident; costs.

07-1879
Evergreen Intl S.A. v. Marinex Construction
(Duffy)

MARITIME LAW. Liability issues relating to allision and resulting oil spill in navigable waters.

Wednesday, May 14, 2008

PANEL IV
Courtroom 4
Room 414-D (Tweed Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
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07-4187
US v. Larry Lee Schaffer
(Maxwell)

FOURTH AMENDMENT. Whether warrantless entry into residence was justified by exigent circumstances; other issues.

07-4465
US v. George W. Bradshaw
(Stamp)

CRIMINAL LAW. Sufficiency of evidence to support mail fraud conviction; denial of motion for directed verdict; admission of Fed. R. Evid. 404(b) evidence; calculation of loss.

07-1507
Flaherty v. Legum & Norman
(Lee)

NEGLIGENCE LAW. Sufficiency of expert witness testimony regarding maintenance by condominium of water system.

07-7569
Benny Iko v. Mark Raley
(Connelly)

CONSTITUTIONAL LAW. Whether qualified immunity defense was properly denied regarding allegations of excessive force and Section 1983 claim.

Wednesday, May 14, 2008

Panel V
Courtroom 5
Room 229 Courthouse Annex
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
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06-2172
Westmoreland Coal Co v. Charles M. Amick

BLACK LUNG. Whether ALJ's findings on remand regarding physician's opinions are rational, supported by substantial evidence, and comply with applicable law. 15 mins. per side

06-4889
US v. Reginald Jones, III
(Legg)

CRIMINAL LAW & PROCEDURE. Whether motion to suppress evidence and statements was properly denied.

06-4257
US v. Michael L. Branch
(Blake)

CRIMINAL LAW & PROCEDURE. Propriety of denial of motions to suppress, to sever, and for judgment of acquittal; other issues.

Thursday, May 15, 2008

PANEL I
Courtroom 1
Room 412 (Red Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/13/2008 - 05/16/2008 Session)

07-0013
Strickland v. Branker
(Mullen)

HABEAS CORPUS. Numerous issues arising out of state capital murder conviction and sentencing.

07-1463
Ilozor v. Hampton University
(Friedman)

CIVIL. Whether genuine issues of material fact existed sufficient to warrant the denial of defendant's summary judgment motion on plaintiff's age and national origin discrimination claims; other issues.

07-1464
Sartin v. Macik
(Whitney)

FEDERAL PROCEDURE. Issues relating to preclusive effect of state default judgment in federal bankruptcy proceedings; other issues.

Thursday, May 15, 2008

PANEL II
Courtroom 2
Room 201 (Green Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
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07-1190
SC Dept Disabilities v. Hoover Universal Inc
(Anderson)

FEDERAL PROCEDURE. Whether defendant entities are arms or alter egos of the state or are citizens of the state for purposes of diversity of citizenship; other issues.

07-1549
Isaacs v. Metropolitan Life
(Norton)

ERISA. Whether the administrative record documented the decision-making process sufficiently; whether applicant effectively filed a long-term disability claim; other issues.

07-1362
Hailey v. Comm,Social Security
(Kiser)

SOCIAL SECURITY. Whether substantial evidence supports the Commissioner's decision to deny disability benefits.15 mins. per side

Thursday, May 15, 2008

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UNITED STATES COURT OF APPEALS
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07-1561 Krenzke v. Alexandria Motor (Hilton)	CIVIL. Whether appellant adequately invoked rights and had serious medical condition under FMLA.
07-1594 Herder v. Simms (Lee)	CIVIL. Propriety of summary judgment on claim that buyer breached contract for sale of land.
07-1580 Woods v. Prudential Insurance (Friedman)	ERISA. Whether the plan language conferred discretionary authority to determine benefits; eligibility for benefits.

Thursday, May 15, 2008

PANEL IV
Courtroom 4
Room 414-D (Tweed Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
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07-1973
Nourison Rug Corp v. Parvizian
(Chasanow)

CONTRACT. Whether district court should have permitted defendant to amend answer to raise defense of release; other issues.

07-2078
Vincenzo v. AIG Insurance Svc
(Keeley)

SAVINGS STATUTE. Whether West Virginia savings statute operates to save cause of action for third-party claim against insurer otherwise barred by legislation.

07-4551
US v. Nancy Jean Siegel
(Davis)

CRIMINAL LAW & PROCEDURE. Whether district court abused its discretion in excluding evidence of fraud scheme and by excising from indictment all allegations except those regarding one victim.

Thursday, May 15, 2008

PANEL V
Courtroom 5
Room 229 Courthouse Annex
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
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07-4498
US v. Kareem B. Farrior
(Conrad)

CRIMINAL LAW & PROCEDURE. Whether events with valid traffic stop led to search that violated Fourth Amendment; other issues.

07-4730
US v. William Brennan, III
(Wilson)

CRIMINAL LAW & PROCEDURE. Propriety of revocation of supervised release; other issues.

Friday, May 16, 2008

PANEL I
Courtroom 1
Room 412 (Red Carpet)
8:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/13/2008 - 05/16/2008 Session)

07-4303
US v. Dewayne Anderson
(Keeley)

CRIMINAL LAW & PROCEDURE. Whether evidence was sufficient to sustain drug conspiracy and distribution convictions; whether district court erred in admitting drug field test evidence; sentencing issues.

07-4312
US v. Henry Moran
(Conrad)

CRIMINAL LAW & PROCEDURE. Whether the evidence is sufficient to support firearm and drug distribution convictions; other issues.

07-4632
US v. Ronald L. Phillips
(Stamp)

CRIMINAL LAW & PROCEDURE. Whether district court erred in denying motion for specific performance of plea agreement.

07-4578
US v. Edgar Henry
(Keeley)

CRIMINAL LAW & PROCEDURE. Probable cause to support thermal imaging; speedy trial; sentencing issues.

Friday, May 16, 2008

PANEL II
Courtroom 2
Room 201 (Green Carpet)
8:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/13/2008 - 05/16/2008 Session)

06-4303
US v. Daniel Watlington
(Fox)

CRIMINAL LAW & PROCEDURE. Sufficiency of the evidence as to conspiracy, bank fraud, money laundering convictions; restitution calculation; sentencing enhancements; other issues.

07-0019
Danny Frogge v. Gerald Branker
(Tilley)

HABEAS CORPUS. Numerous issues arising out of state capital murder conviction and sentencing.

06-1826
Ayres v. Mayor and City Cncl
(Quarles)

FTCA. Choice of law issues; viability of negligence claims concerning roadway maintenance; other issues.

07-4508
US v. Covonti Kwa Moses
(Tilley)

SEARCH & SEIZURE. Whether probable cause and exigent circumstances supported warrantless search; other issues.

Friday, May 16, 2008

PANEL III
Courtroom 3
Room 223 (Tan Carpet)
8:30 a.m.